

**CERCLA 108(b) Proposed Rulemaking for Hardrock Mining
Call with States**

July 7, 2016 2:00-3:00pm EDT

Objective: These discussions will help EPA gain insight into state programs which regulate hardrock mining and facilitate a discussion that allows states to communicate how they see the CERCLA 108(b) proposed rule would affect them. Further, these discussions may help states focus comments for the Federalism consultation, which can be submitted to EPA through August 17, 2016. The questions below are provided to give the participants food for thought and to stimulate discussion, rather than to set a rigid agenda for the call.

EPA Questions for States on Financial Responsibility for Hardrock Mining

1. Since states have raised concerns about potential preemption or duplication of state hardrock mining financial assurance requirements, we would like to give you the opportunity to discuss those concerns with us, or any other concerns with or questions about the CERCLA 108(b) hardrock mining financial assurance rulemaking. We are forwarding letters we received regarding the CERCLA Section 114(d) preemption provision, from the states of Alaska, Arizona, Colorado, and New Mexico in 2011, and would like to give the state participants an opportunity to elaborate on or discuss current state thinking on this issue.
2. How do your programs apply on mines located on land with shared federal-state ownership?
3. How does your state approach spills or releases of hazardous substances from a mining site? Does your state require financial responsibility specifically for such releases?
4. What reporting requirements do you have for mining facilities, either related to mine operations or maintenance of their financial instruments? Do you have any difficulties with compliance with these requirements?
5. How frequently has your state needed to take enforcement actions against a mining entity for violations relating to financial assurance? How would you characterize the types of violations that trigger enforcement?
6. Does your state require third party certification for assessing mine site features or to verify the calculation of cost estimates related to your state programs? If so, we would be interested in hearing about your experience with these approaches.
7. What is your experience with Environmental Management Systems, ISO certification, third party inspection programs, or similar types of programs in reducing risk from mining operations?